

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DERRICK EUGENE KIRTMAN,)
vs.)
Plaintiff,)
vs.) NO. CIV-16-0386-HE
MARGARET GRISMER, *et al.*,)
Defendants.)

ORDER

Plaintiff Derrick Eugene Kirtman, a state prisoner appearing *pro se*, filed his § 1983 complaint. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Gary M. Purcell. He has recommended that the action be dismissed without prejudice due to plaintiff's failure to comply with his order to either submit an application seeking leave to proceed *in forma pauperis* ("ifp") or pay the required filing fee by May 9, 2016. The magistrate judge advised plaintiff that failure to comply with the order could result in the dismissal without prejudice of the action.

Plaintiff did not object to the magistrate judge's Report and Recommendation and thereby waived his right to appellate review of the factual and legal issues it addressed. Casanova v. Ulibarri, 595 F.3d 1120, 1123 (10th Cir. 2010); *see* 28 U.S.C. §636(b)(1)(C). Accordingly, the court **ADOPTS** Magistrate Judge Purcell's Report and Recommendation and dismisses this action without prejudice.

IT IS SO ORDERED.

Dated this 15th day of June, 2016.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE